IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 3122 OF 2007

ALONGWITH

WRIT PETITION NOS. 3123, 3124, 3125 & 3126 OF 20027.

Rangrao Dadu Shinde .... Petitioner

versus

Jagannath Y.Patil & anr..... Respondent.

Shri S.D. Patil and S.S.Tambekar for the petitioner
Shri V.A.Shastri for respondent no.1.
Shri P.P.Kakade AGP for Respondent no.2

CORAM; A.P. DESHPANDE, J.
DATED; 21ST AUGUST, 2007

P.C.;

1. The present petitioners moved an application before the Assistant Charity Commissioner in the first four writ petitions, purportedly under section 22 of the Bombay Public Trust Act reporting a change that had allegedly occurred in the management of the trust. The Assistant Charity Commissioner without holding any enquiry and without any notice to the parties, who were likely to be affected, allowed the change reports. Aggrieved by the order passed by the Charity Commissioner, allowing the change report, the present respondents preferred an appeal before the Joint Charity Commissioner. During pendency of the appeal,

the respondents also moved the Assistant Charity Commissioner by making an application for review of the order. The main thrust of the submission before the Assistant Charity Commissioner on behalf of the respondents was that the impugned order was passed in violation of the principles of natural justice and without affording any opportunity to the respondent to be heard in the matter. The Assistant Charity Commissioner being convinced about the order being illegal and wholly unsustainable, allowing the review petition, has set aside the order dated 20-11-2006 by passing an order dated 12-4-2007. The present petitioners being aggrieved by the order dated

g 12-4-2007 has filed these writ petitions.

2. Perused the impugned order passed in first four writ petitions. The order does not call for any interference in exercise of writ jurisdiction in as much as the order does not suffer from any patent illegality. It is not in dispute that the change report was earlier allowed by an order dated 20-11-2006 in breach of principles of natural justice. Hence the impugned order dated 12-4-2007 is just and proper. Hence the first four writ petitions are dismissed summarily.

3. In the last petition, being **W.P.No.3126/07,** Leave to add Education Officer as party respondent.

Amendment to be carried out forthwith. It challenges the order yet again passed by the Assistant Charity Commissioner dated 12-4-2007 whereby the committee of three persons by name Shri Subhash Vishnu Patil, Shri Uttam Anand Shewale and Shri Jaganath Yeshwant Patil has been appointed and they are authorised to manage the affairs of the trust and the school run by the trust. The petitioner objected to the appointment of the said three persons by Assistant Charity Commissioner by contending that the impugned order travels beyond the scope of the prayer made by the respondent in their application.

4. My attention is invited to the application moved by the respondent dated 18-10-2006 wherein it was prayed that the Assistant Charity Commissioner should appoint two superintendents working in the office of the Charity Commissioner to act as administrators. The submission is that instead of appointing an impartial person, interested parties are appointed as members of the committee, which would not be in the interest of administration of the trust. It is then submitted that the petitioners are agreeable for the trust and the school being run by impartial person.

5. The impugned order dated 12-4-2007 appointing the committee of the above referred three persons, has been stayed by this court, by order dated 21-4-2007.

This impugned order dated 12-4-2007 has not been acted upon by the parties though their names are entered in the Schedule -I, to be maintained by the Charity Commissioner. Taking entries in Schedule-I, by itself cannot be equated with taking over the charge by the committee members and having regard to the facts and circumstances on record of W.P.3126/07, I am of the clear view that the parties should approach the Assistant Charity Commissioner seeking modification of the order dated 12-4-2007 so that the Assistant Charity Commissioner can, after considering the rival submission, pass an appropriate order in accordance with the law. At this stage, the learned counsel for the respondent has brought to my notice the fact that on account of vacuum being created in the administration of trust, on account of grant of stay by this court, the staff members working in the school are suffering. I am informed that the entire staff working in the school has not been paid their salary as there is no one empowered to submit the pay bills to the office of the Education Officer. Having regard to the difficulty faced by the School administered by the trust in question, I deem it appropriate to direct the Education Officer, Zilla Parishad, Sangli to appoint the senior most teacher and authorise him to sign the pay bills for drawing of the salary of the staff members. The Education Officer shall honour the signature of the senior most teacher so appointed for

all administrative matters till the Asstt. Charity Commissioner passes appropriate order touching the administration of the trust.

6. It shall be open for the parties to move appropriate application before the Asstt. Charity Commissioner seeking modification of the order dated 12-4-2007 and the Asstt. Charity Commissioner shall after affording an opportunity of hearing to all concerned, pass appropriate order within a period of two months from today. Till then the order passed by this court dated 21-4-2007 granting stay of the impugned order dated 12-4-2007 shall continue to operate. Writ petition is thus disposed of.

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